

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

ORIGINAL

In re Amendment of Section 73.202(b))	MM Docket No. 02-12
of the Commission's Rules, Table of Allotments,)	
FM Broadcast Stations)	RM-10356, RM-10551,
)	RM-10552, RM-10553,
(ASH FORK, ARIZONA ET AL.))	and RM-10554

To: The Assistant Chief, Audio Division, Office of Broadcast License Policy, Media Bureau

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

FURTHER REPLY COMMENTS

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SUMMARY

NPR Phoenix, LLC (*NPR*), the licensee of station KEDJ, Channel 280C2, Gilbert, Arizona, Facility ID No. 54944 hereby files its Further Reply Comments in this proceeding. NPR advances herein a proposal which is slightly altered from that previously advanced by NPR and Spectrum Scan, LLC (*SS*), the licensee of station KRCY(FM), Channel 224C, Dolan Springs, Arizona, Facility ID No. 27982 in Joint Reply Comments on April 2, 2002. In their Joint Reply comments, NPR and SS had accommodated all known timely filed Counterproposals to the Notice of Proposed Rule Making in this proceeding (the *NPRM*), as well as the desired for service expressed in the Petition for Rule Making underlying the *NPRM*, which had proposed the allotment of Channel 285A to Ash Fork, Arizona as a first local service.

Neither NPR nor SS were aware of the filing by Sierra H Broadcasting, Inc., the licensee of station KAJM, Channel 282C, Payson, Arizona, Facility ID No. 52818, of a Petition for Rule Making seeking the relicensing and relocation of station KAJM. Sierra H filed its Lake Montezuma Petition on the deadline for Comments and Counterproposals in this proceeding. Apparently, the filing was not in the FCC's engineering data base as of the time that NPR and SS prepared and filed their Joint Reply Comments. Neither licensee was thus aware that the Lake Montezuma proposal conflicted with the KEDJ element of the NPR Component of their global resolution.

The Commission has accepted for rule making NPR's original Counterproposal in this docket, and has assigned it the rule-making number RM-10551. The Commission has also accepted for rule making SS's original Counterproposal in this docket, and has assigned it the

rule-making number RM-10552. The Commission has also accepted for rule making Sierra H's Lake Montezuma Petition and is treating it as a Counterproposal in this docket, with the assigned rule-making number RM-10553. The Commission has also accepted for rule making Deborah Comley's Petition, which seeks the allotment of Channel 221A to Beaver, Utah, and is treating it as a Counterproposal in this docket, with the assigned rule-making number RM-10554.

In these Further Reply Comments, NPR advances a multi-element resolution of this proceeding that provides for new local services at Ash Fork and Beaver, and for new and improved services at the communities involved in the NPR Component and the SS Component of the Global Resolution previously advanced in NPR's and SS's Joint Reply Comments. The resolution advanced herein also provides for harmonious resolution of a separate proceeding, Cameron, Arizona (MM Docket No. 02-72). NPR also shows, as it previously has, that the Commission can also accommodate Sierra H through a simple change in reference point. However, NPR also shows that the Sierra H proposal was defective *ab initio* and should not have been accepted in this proceeding. Therefore, NPR urges the Commission to return Sierra H's Petition as inadvertently accepted for rule making. In the alternative, however, if the Commission determines, for some reason unknown to NPR, not to return Sierra H's petition, the Commission must, at a minimum, impose a different site restriction than Sierra H originally proposed, so as to clear NPR's proposal and to allow for an upgrade of station KEDJ and for the adoption of the other elements of the resolution that NPR advances herein.

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To: The Assistant Chief, Audio Division, Office of Broadcast License Policy, Media Bureau

FUTHER REPLY COMMENTS

NPR Phoenix, LLC (*NPR*), the licensee of station KEDJ, Channel 280C2, Gilbert, Arizona, Facility ID No. 54944 hereby files its Further Reply Comments in this proceeding.

I. BACKGROUND

A. THE PETITION AND THE NPRM

1. Liberty Ventures III, LLC (*Liberty*) filed a Petition for Rule Making asking the FCC to allot Channel 285A to Ash Fork, Arizona as a first local service. In response, the staff issued the Notice of Proposed Rule Making (the *NPRM*), 67 Fed. Reg. 5961 (2002). Schematically, the NPRM's proposal was as follows:

COMMUNITY	PRESENT	PROPOSED
Ash Fork, Arizona	---	285A

The reference point for Channel 285A was site-restricted 13.6 km to the West of Ash Fork, at coordinates North Latitude 35° 12' 27", West Longitude 112° 37' 49".

B. NPR's COUNTERPROPOSAL

2. NPR timely advanced the following Counterproposal. Rather than merely allotting Channel 285A as a first local service to Ash Fork, as the NPRM proposed, NPR asked the FCC:

- (a) to allot Channel 285C3 to the community of Peach Springs, Arizona as a first local service¹; and
- (b) to allot Channel 280A to Ash Fork, Arizona²; and
- (c) to accommodate Channel 280A at Ash Fork, to substitute another Class A Channel for Channel 277A at Seligman, Arizona, the frequency occupied by station KZKE (FCC Facility ID Number 56339), with no change in station KZKE's licensed transmitter site, and to modify KZKE's license accordingly;³
- (d) further to accommodate Channel 280A at Ash Fork, to substitute Channel 232C3 for Channel 280C3 at Chino Valley, Arizona, and to modify the license of station KFPB (FCC Facility ID Number 109) accordingly;⁴ and finally

¹The reference coordinates that NPR suggested for Channel 285C3 at Peach Springs were North Latitude 35° 31' 39", West Longitude 113° 19' 49", which reflected a site-restriction of 9.0 km to the East on a bearing of 90° True.

²The reference coordinates that NPR suggested for Channel 280A at Ash Fork were North Latitude 35° 13' 24", West Longitude 112° 36' 56". These coordinates reflected a site restriction of 11.9 km to the West of Ash Fork.

³The licensed coordinates of Seligman station KZKE are North Latitude 35° 19' 26", West Longitude 112° 45' 55". See File No. BLH-19950301KO. NPR noted that station KZKE could be licensed on any of several channels — Channel 227A, Channel 254A, Channel 265A, or Channel 267A — at the station's licensed site in compliance with the FCC's city-grade and spacing requirements. See NPR Counterproposal at Exhibit A, the Engineering Statement of Klein Broadcast Engineering, at pp. 2-3. As required by Commission precedent, NPR committed to reimburse the licensee of station KZKE for the reasonable and prudently incurred expenses associated with shifting station KZKE from Channel 277A to the substitute channel.

⁴The reference coordinates that NPR suggested for Channel 232C3 at Chino Valley were North Latitude 34° 52' 03", West Longitude 112° 33' 04". NPR noted that these differ from KFPB's licensed (BLH-19981015KA) coordinates (North Latitude 34° 42' 52", West Longitude 112° 31' 33"). As required, NPR supplied, as Exhibit B to its Counterproposal, a statement of

(e) to substitute Channel 280C1 for Channel 280C2 at Gilbert, Arizona, and to modify the license of NPR's station KEDJ accordingly.⁵

Schematically, NPR's Counterproposal was as follows:

COMMUNITY	PRESENT	PROPOSED
Peach Springs, Arizona	---	285C3
Ash Fork, Arizona	---	280A
Seligman, Arizona	277A	254A, or 227A, or 265A, or 267A
Chino Valley, Arizona	280C3	232C3
Gilbert, Arizona	280C2	280C1

NPR noted that the allotment of Channel 285C3 to Peach Springs and the allotment of Channel 280A to Ash Fork would each represent a first local service. NPR asserted that Peach Springs fully warrants a first local service, and that the upgrade of NPR's station KEDJ would result in KEDJ serving significantly a larger area and population. NPR also asserted that adoption of its Counterproposal would represent a substantially more efficient use of the spectrum than would the simple allotment of Channel 285A to Ash Fork.

The Commission's Public Notice (the *PN*), Report No. 2571 (released August 26, 2002), announced that the FCC had accepted NPR's Counterproposal for rule making and had assigned it the rule-making number 10551. The PN suggested the use of Channel 267A as the replacement channel for Seligman station KXKE.

consent from the licensee of station KFPB.

⁵The reference coordinates that NPR suggested for Channel 280C1 at Gilbert were North Latitude 33° 25' 39", West Longitude 111° 28' 03". These coordinates reflected a site restriction of 29.6 km Northeast of Gilbert, on a bearing of 69° True.

C. SIERRA H'S COUNTERPROPOSAL

3. On the deadline for Comments and Counterproposals in this proceed, Sierra H Broadcasting, Inc. filed a Petition for Rule Making seeking the relicensing and relocation of station KAJM, Channel 282C, Payson, Arizona, Facility ID No. 52818. The proposed new community of license was Lake Montezuma, Arizona, and the reference coordinates that Sierra H suggested were North Latitude 34° 20' 03", West Longitude 111° 35' 31". These are other than, and further away from, Lake Montezuma than the coordinates of station KAJM's licensed site are (North Latitude 34° 25' 48", West Longitude 111° 30' 16").

4. The reference point that Sierra H's Petition for Rule Making employed short-spaced the NPR's reference point for Channel 280C1. Because of this, the FCC has accepted Sierra H's Petition for Rule Making as a Counterproposal in this docket, and has assigned to Sierra H's Petition the rule-making number RM-10552.

D. SS'S COUNTERPROPOSAL

5. Spectrum Scan, LLC (SS), the licensee of station KRCY(FM), Channel 224C, Dolan Springs, Arizona, Facility ID No. 27982, also timely advanced a Counterproposal in this proceeding. Rather than allotting Channel 285A as a first local service to Ash Fork, as Liberty suggested, SS asked the FCC:

(a) to allot Channel 285C1 to the community of Fredonia, Arizona as a first local commercial (second local) service⁶; and

⁶The reference coordinates that SS employed for Channel 285C1 at Fredonia were North Latitude 36° 57' 50", West Longitude 112° 31' 32".

- (b) to allot Channel 223A to Ash Fork, Arizona as a first local service⁷; and
- (c) to accommodate Channel 223A at Ash Fork, substitute another Class A Channel for the previously proposed Channel 223A at Chino Valley, Arizona;⁸ and
- (d) to substitute Channel 224C at Moapa Valley, Nevada for Channel 224C at Dolan Springs, Arizona, and to modify the license of SS's station KRCY accordingly, thereby providing Moapa Valley with a second local service⁹ and
- (e) to accommodate Channel 224C at Moapa Valley, Nevada, to substitute Channel 221C for Channel 223C at Cedar City, Utah, and to modify the license of station KXFF (Facility ID No. 61386) accordingly;¹⁰ and
- (f) to accommodate Channel 221C at Cedar City, Utah, to substitute Channel 222A for Channel 221A at Tusayan, Arizona, and to modify the license of station KSGC (FCC

⁷The reference coordinates that SS employed for Channel 223A at Ash Fork were North Latitude 35° 12' 27", West Longitude 112° 37' 49". These were the same coordinates that Liberty had employed in its Petition for Rule Making, and the same ones that the NPRM employed. They reflected a site restriction of 13.6 km to the West of Ash Fork.

⁸See Notice of Proposed Rule Making in MM Docket 01-264, 66 Fed. Reg. 52566 (October 16, 2001) (the *Chino Valley NPRM*). The coordinates that the Chino Valley NPRM employed for Channel 223A at Chino Valley were North Latitude 34° 46' 10", West Longitude 112° 31' 03". These coordinates reflected a site restriction of 6 kilometers to the West of Chino Valley. SS employed the same coordinates in suggesting Channel 232A as an alternative to Channel 223A at Chino Valley.

⁹The reference coordinates that SS suggested for Channel 224C at Moapa Valley were North Latitude 36° 35' 06", West Longitude 114° 36' 01". These coordinates reflected a site restriction of 14.1 km West of Moapa Valley on a bearing of 286° True.

¹⁰The coordinates that SS suggested for Channel 221C at Cedar City were North Latitude 37° 38' 41", West Longitude 113° 22' 28". These coordinates are the same as station KXFF's licensed site. See FCC File No. BLH-7203. As required by Commission precedent, SS committed to reimburse the licensee of station KXFF for the reasonable and prudently incurred expenses associated with shifting station KXFF from Channel 223C to Channel 221C.

Facility ID Number 68417) accordingly;¹¹ and finally,

(g) further to accommodate Channel 221C at Cedar City, Utah, to allot either Channel 246A or Channel 261A at Beaver, Utah, and not Channel 221A.¹²

Schematically, SS's Counterproposal was as follows:

COMMUNITY	PRESENT	PROPOSED
Fredonia, Arizona	---	285C1
Ash Fork, Arizona	---	223A
Chino Valley, Arizona	280C3	232A, 280C3
Dolan Springs, Arizona	224C, 289C	289C
Moapa Valley, Nevada	284C	224C, 284C
Cedar City, Utah	223C	221C
Tusayan, Arizona	221A	222A
Beaver, Utah	---	246A or 261A

SS asserted that Fredonia and Moapa Springs each fully warrant a second local service, and that relicensing SS's station KRCY to Moapa Springs and relocating it would cause KRCY to serve a much larger area and population. As NPR did in its own Counterproposal, SS also noted that its Counterproposal would represent a substantially more efficient use of the spectrum than would the simple allotment of Channel 285A to Ash Fork.

¹¹The reference coordinates that SS suggested for Channel 222A at Tusayan were North Latitude 35° 58' 14", West Longitude 112° 07' 53". SS noted that these are the licensed coordinates for station KSGC on Channel 221A. See FCC File No. BMLH-19990809KD. As required by Commission precedent, SS committed to reimburse the licensee of station KSGC for the reasonable and prudently incurred expenses associated with shifting station KSGC from Channel 221A to Channel 222A.

¹²As discussed below, Ms. Deborah Comley has sought the allotment of Channel 221A to Beaver as a first local service using the reference coordinates North Latitude 38° 09' 14", West Longitude 112° 36' 31". The coordinates that SS had suggested for Channel 246A or Channel 261A at Beaver were North Latitude 38° 16' 37", West Longitude 112° 38' 25".

6. The reference point that SS employed for Channel 285C1 at Fredonia is short-spaced to the NPRM's reference point for Channel 285A at Ash Fork. Because of this short spacing, the FCC has accepted SS's filing as a Counterproposal in this docket, and has assigned to SS's Petition the rule-making number RM-10553.

E. DEBORAH COMLEY'S COUNTERPROPOSAL

7. On December 6, 2001, Deborah Comley filed a Petition for Rule Making requesting the allotment of Channel 221A to the community of Beaver, Utah, using the reference coordinates North Latitude 38° 16' 37", West Longitude 112° 38' 25". Ms. Comley's Petition's reference point for Channel 221A at Beaver is short-spaced to the reference point for SS's proposed cochannel substitute frequency at Cedar City, Utah. Because of this short spacing, the FCC has accepted Ms. Comley's Petition for Rule Making as a Counterproposal in this docket and has assigned to her Petition the rule-making number RM-10554.

F. NPR/SS JOINT REPLY COMMENTS

8. Shortly after the deadline for Comments in this proceeding, NPR and SS became aware of each others' Counterproposals in this proceeding, and realized that the two Counterproposals, as filed, were mutually exclusive. Specifically, Channel 285C3 at Peach Springs (as NPR had proposed) and Channel 285C1 at Fredonia (as SS had proposed) could not coexist in conformity with the FCC's spacing requirements. Also, Chino Valley station KFPB could not shift to Channel 232C3 (as NPR had proposed) if the Commission allotted Channel 232A to Chino Valley as a new service to that community (as SS had proposed) rather than Channel 221A, as the Chino Valley NPRM had proposed (see para. 5(c) and n.8, above).

9. NPR and SS resolved to find a global resolution that would accommodate all (known) expressions of interest timely filed in the Ash Fork proceeding. Accordingly, NPR and SS devised a proposal that accommodated:

- Liberty's desire for a Class A channel at Ash Fork;
- Ms. Comley's desire for a Class A channel at Beaver;
- Mr. Crawford's desire for a Class A channel at Chino Valley; and
- the various aspects of NPR's and SS's respective Counterproposals.

NPR and SS advanced what they believed to be a global resolution in Joint Reply Comments filed on the original deadline for Reply Comments set by the NPRM (April 2, 2002). The Global Resolution had two components: an NPR Component; and an SS Component. The two were not mutually exclusive, and neither depended on the other.

10. At the time, neither NPR nor SS was aware that Sierra H had, on March 18 — the Comment deadline in this proceeding — filed its Lake Montezuma Petition. Neither licensee was thus aware that the Lake Montezuma proposal conflicted with the KEDJ element of the NPR Component of their global resolution. Subsequently, in another proceeding (Cameron, Arizona, MB Docket No. 02-73), after NPR had learned of the existence of the Lake Montezuma filing, NPR noted that the Commission could easily resolve the spacing conflict by using an alternative reference point for Channel 282C at Lake Montezuma — either station KAJM's currently licensed site, or another, arbitrary reference point. See NPR Cameron Counterproposal at pp. 2, 3, 13-14, and NPR/Arizona-Radio-Partners Cameron Joint Reply Comments at pp. 6, 11-12, 14.

II. COMPLETE RESOLUTION OF THIS PROCEEDING

A. SELIGMAN, ARIZONA

11. As noted above, in its original Counterproposal in this proceeding, NPR suggested several channels as substitutes for station KXKE's Channel 277A at Seligman, Arizona. The PN suggests the use of one of those, Channel 267A. NPR respectfully suggests that the Commission employ another of the channels that NPR had originally suggested, Channel 227A. The advantage of using Channel 227A at Seligman (at KXKE's licensed site) is that such will permit the allotment of Channel 267A to Ash Fork, as NPR has previously suggested in the more recently initiated Cameron proceeding (MB Docket No. 02-73). See Attachment A hereto, the Engineering Statement of Klein Broadcast Engineering, LLC, NPR's technical consultant. This will provide the Commission with maximum flexibility and will result in the most efficient use of the spectrum. Section 307(b) considerations militate in favor of the use of Channel 227A at Seligman. Endicott, New York, 51 FCC 2d 50, 51 (1975); Stuart and Boone, Iowa, 5 FCC Rcd 4537 (M.M. Bur. 1990), recons. den., 6 FCC Rcd 6036 (1991); Miami, West Virginia, 58 Rad. Reg. (P & F) 2d 146, 148 (M.M. Bur. 1985); Micanopy and Williston, Florida, 50 Rad. Reg. (P & F) 2d 1425 (B. Bur. 1982); Marshfield, Massachusetts, 33 Rad. Reg. (P & F) 2d 611, 613 (B. Bur. 1975). NPR reiterates its prior pledge to provide Circleville¹³ reimbursement to KZKE.

B. ASH FORK, ARIZONA

12. For the same reason as stated immediately above, NPR suggests the allotment of Channel 267A to Ash Fork, Arizona, in place of the NPRM's proposed Channel 285A, NPR's

¹³Circleville and Columbus, Ohio, 8 FCC 2d 159 (1967).

originally suggested Channel 280A, SS's originally suggested Channel 223A, or the NPR/SS Joint Reply Comments' suggested Channel 280A. See Attachment A for technical details.

C. BEAVER, UTAH

13. Also for the same reason of spectral efficiency, NPR suggests the allotment of Channel 267A to Ash Fork, Arizona, in place of the NPRM's proposed Channel 285A, NPR's originally suggested Channel 280A, SS's originally suggested Channel 223A, or the NPR/SS Joint Reply Comments' suggested Channel 280A. See Attachment A for technical details.

D. LAKE MONTEZUMA, ARIZONA

14. NPR's technical consultant has analyzed Sierra H's Lake Montezuma proposal, and has found it severely wanting on its technical merits. Counterproposals must be complete and accurate in all material respects as of the deadline for Comments. See, e.g., Eldorado and Lawton, Oklahoma, 5 FCC Rcd 6737 (1990); Santa Isabel, Puerto Rico and Christiansted, Virgin Islands, 3 FCC Rcd 2336 (1988), recons. den., 4 FCC Rcd 3412 (1989), Brookville and Punxsatawney, Pennsylvania, 3 FCC Rcd 5555 (1988). See also, Lonoke, Arkansas and Clarksdale, Mississippi, 6 FCC Rcd 4861 (1991); York, Alabama, 4 FCC Rcd 6923 (1989). Where a Counterproposal does not satisfy the requirements of § 73.315 of the rules, it is not acceptable for rule making. See, e.g., Burnet, Texas, 16 FCC Rcd 13281(2001) at n.1. Where a significant terrain obstruction would exist between a proposed allotment's reference point and the proposed city of license, such that the proposed allotment cannot satisfy the requirements of 47 C.F.R. § 73.315, the proposed allotment is fatally defective. Creswell, Oregon, 3 FCC Rcd 4608 (1988), Bald Knob and Clarendon, Arkansas, 6 FCC Rcd 7435 (1991), and Jefferson City, Cumberland Gap,

Elizabethton, Tennessee and Jonesville, Virginia, 10 FCC Rcd 12207 (1995), recon. denied 13 FCC Rcd 2303 (1998). See also, Rangely et al., Colorado, 16 FCC Rcd 6953 (2001) at n. 10.

15. As Mr. Elliott Klein demonstrates in Attachment A, there is significant terrain blockage between the reference point that Sierra H employed for its Channel 282C Lake Montezuma Petition for Rule Making and the proposed community of license. As a result of this blockage, the field strength that would exist over the proposed community of license is nearly 24 dB less than the 70 dB μ that § 73.315 of the Rules requires. Moreover, as Mr. Klein further demonstrates in Attachment A, it appears that the entire fully spaced area that is close enough to Lake Montezuma and within the city-grade radius using the Commission's f(50,50) curves suffers from substantial terrain obstruction. Indeed, it appears that line-of-sight, 70-dB μ coverage would require the construction of an enormous radio tower.... one in the neighborhood of 1,000 to 1,500 feet or more. See Attachment A at pp.5-8.

16. The erection of such a huge structure is not possible, given the fact that the vast majority of the fully spaced, f(50,50)-city-grade-radius area lies within environmentally sensitive areas including the Tonto and Coconino National Forests. See Attachment A at pp. 5. See also Attachment B, construction and use requirements supplied to NPR by the U.S. Forest Service. Specifically, the Forest Service requires towers in the Tonto and Coconino Forests to be unlit. Given FAA requirements, this means that towers cannot exceed 199 feet in height above ground level.¹⁴ And given the great height required for § 73.315-compliant service, the Commission must conclude that the fully spaced area is not suitable to anchor a Lake Montezuma allotment:

¹⁴For example, KAJM's licensed transmitter site is in the Coconino National Forest. The licensed structure is unlit and below 200 feet AGL.

“The suitability of a site area is determined by whether a site can be located within an area complying with the minimum distance separation requirements of Section 73.207 and the city grade coverage and other requirements of Section 73.315. See Creswell, Oregon, 4 FCC Rcd 7040 (1989). The suitability of a site area also relates to the feasibility of using a particular area to accommodate an actual transmitter site, the theoretical or reference site also lying within that area. As the site requested at Rangely is in a mountainous area, there is no showing that it is a designated electronics site, or that there is any electrical power or road access provided to the area.”

Rangely, supra, at n. 10. Given the defective nature of the Lake Montezuma proposal, the staff must return Sierra H’s Petition as inadvertently accepted for rule making. In the alternative, however, if the staff determines, for reasons unknown to NPR, not to return Sierra H’s petition, the staff must, at a minimum, impose a different site restriction than Sierra H has proposed, so as to clear NPR’s proposal and to allow for an upgrade of station KEDJ and for the adoption of the other elements of the resolution that NPR advances herein. This will provide the FCC with maximum flexibility and will result in the most efficient use of the spectrum. Section 307(b) considerations militate in favor of the use of Channel 227A at Seligman. Endicott, New York, 51 FCC 2d 50, 51 (1975); Stuart and Boone, Iowa, 5 FCC Rcd 4537 (M.M. Bur. 1990), recons.

E. RECAP

17. NPR urges the Commission to adopt a complete resolution of this proceeding based on the Joint Reply Comments that NPR and SS filed in this proceeding, subject to the following slight adjustments which have become necessary due to other filings and proceedings:

1. IN THE NPR COMPONENT

18. The NPR Component of the Joint Resolution previously proposed, among other things, as a substitute for Channel 277A at Seligman, the allotment of either Channel 227A, 265A, 267A, or 254A, using station KZKE’s licensed site as the reference point. To allow

flexibility in the Cameron proceeding (MB Docket 02-73), NPR suggests the use of Channel 227A to Seligman, as set forth in Exhibit E-2 to Attachment A. The NPR Component of the Joint Resolution also proposed, among other things, as a first local service, the allotment of Channel 280A to Ash Fork, Arizona, using a reference point of North Latitude 35° 13' 24", West Longitude 112° 36' 56" (corresponding to a site restriction of 11.9 km to the West). To allow flexibility in the Cameron proceeding (MB Docket 02-73), NPR suggests the allotment of Channel 267A to Ash Fork, as set forth in Exhibit E-1 to Attachment A. Other aspects of the NPR Component previously filed are incorporated by reference herein, including: the allotment of Channel 285C3 to Peach Springs, Arizona, using the reference point previously suggested; the substitution of Channel 232C3 for Channel 280C3 at Chino Valley, Arizona, the relocation (with the licensee's consent, previously supplied) of station KFPB, FCC Facility ID Number 109, to a new site with the coordinates North Latitude 34° 52' 03", West Longitude 112° 33' 04"; and the substitution of Channel 280C1 for Channel 280C2 at Gilbert, Arizona, using reference coordinates of North Latitude 33° 25' 39", West Longitude 111° 28' 03", reflecting a site restriction of 29.6 km NorthEast of Gilbert, on a bearing of 69° True, and a concomitant modification of station KEDJ's license

19. The NPR Component of the Global Resolution entails but one involuntary shift of an authorized facility (KZKE), and thus complies with the Commission's policy set forth in Columbus, Nebraska et al., 59 Rad. Reg. (P & F) 2d 1184 (1986). If necessary, the Commission should issue an order directing the licensee of KZKE to show cause why its license should not be modified as NPR has requested.

2. IN THE SS COMPONENT

20. The SS Component of the Global Resolution entailed, among other things, the allotment of either Channel 246A or Channel 261A at Beaver, Utah, rather than Channel 221A, as Ms. Comley had proposed.¹⁵ It appears that Channel 246A may be the better alternative, due to spacing considerations involving a proposed Channel 262C allotment to Escalante, Utah (MM Docket 01-135). A suitable spacing study for Channel 246A is set forth in Exhibit E-3 to Attachment A.

21. The SS Component of the Global Resolution entails two involuntary frequency shifts of authorized facilities (KXFF, Cedar City, Utah, and KSGC, Tusayan, Arizona), and thus complies with the Commission's policy set forth in Columbus, Nebraska et al., *supra*. NPR notes that the licensee of KSGC has filed (Reply) Comments dated May 30, 2002, supporting the substitution of Channel 222 in place of Channel 221A at Tusayan, but with Class C2 status instead of Class A status.

22. Commission action consistent with NPR's position as advanced herein and with the relevant portions of the Joint Reply comments previously filed will represent a significantly more efficient use of the spectrum than Liberty's proposal, the NPRM, or adopting one of the original Counterproposals would offer. Spectral efficiency is a "paramount" Commission consideration under § 307(b) of the Communications Act. Endicott, New York, 51 FCC 2d 50, 51 (1975). Accordingly, the FCC has a long history of favoring multiple allotments over single ones. Stuart and Boone, Iowa, *supra*, and the other cases to the same effect cited above.

¹⁵The coordinates that SS has suggested for Channel 246A or Channel 261A at Beaver are North Latitude 38° 16' 37", West Longitude 112° 38' 25".

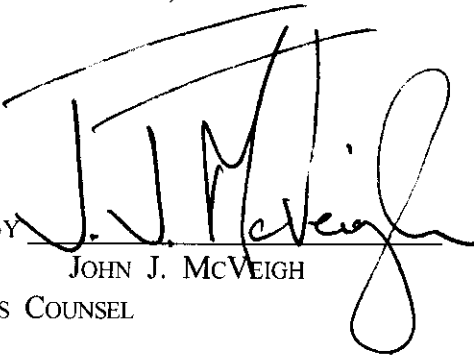
III. CONCLUSION

For the reasons stated above, the FCC should promptly adopt a Report and Order consistent herewith.

Respectfully submitted,

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